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CLAYTON, CA  
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CLAYTON, CA

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E-filing

**ORIGINAL**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**HRL**

10 SCOTT JOHNSON,

11 Plaintiff,

12 v.

13 FREMONT LAND COMPANY,  
14 LLC,

15 Defendant.

**CV 08**  
Case No. CV-8-  
Civil Rights

**2914**

COMPLAINT FOR PRELIMINARY AND  
PERMANENT INJUNCTIVE RELIEF AND  
DAMAGES: DENIAL OF CIVIL RIGHTS AND  
PUBLIC FACILITIES TO PHYSICALLY  
DISABLED PERSONS (CIVIL CODE §§ 54,  
54.1 AND 55; INJUNCTIVE RELIEF PER  
TITLE III, AMERICANS WITH DISABILITIES  
ACT OF 1990

16  
17 Plaintiff, Scott Johnson, alleges:

18 FIRST CLAIM FOR RELIEF: DAMAGES AND INJUNCTIVE RELIEF  
19 FOR DENIAL OF FULL AND EQUAL ACCESS TO A PUBLIC ACCOMMODATION:  
20 PUBLIC FACILITIES AT A GAS STATION/MINI MART (Civil Code §§ 51, 54.1)

21 1. Plaintiff does not have the substantial use of his legs, and limited use of his hands, and  
22 is a "person with a disability" and "physically handicapped person". Plaintiff requires the use  
23 of a wheelchair for locomotion and is either unable to use portions of public facilities which are  
not accessible to disabled persons who require the use of a wheelchair or is only able to use

1 such portions with undue difficulty. Plaintiff is also unable to use inaccessible door handles.

2 2. The "Union 76" gas station and mini mart located at 398 Fremont Street, Monterey,  
3 California (the Store) is a gas station and mini mart. The Store is a public accommodation.  
4 Defendant owns the real property where the Store is located.  
5

6 3. Summary of facts: This case involves the denial of accessible parking, path of travel into the  
7 Store and sanitary facilities to Plaintiff and others similarly situated at the Store on May 17 and  
8 18, 2008 (collectively referred to as the "Dates"). Plaintiff was denied equal protection of the  
9 law and was denied Civil Rights under both California law and federal law, as hereinbelow  
10 described. Plaintiff was denied his rights to full and equal access to the Store because of  
11 barriers in the parking lot and restrooms. All of this made the Store not properly accessible to  
12 Plaintiff or to others similarly situated. Plaintiff seeks injunctive relief to require Defendants to  
13 remove the above-stated barriers, to comply with ADAAG and the CBC where required, to  
14 remove all barriers to access which are readily achievable, to make all reasonable  
15 accommodations in policy in order to enable Plaintiff and others similarly situated to use the  
16 Store and at minimum, to use readily achievable alternative methods to enable Plaintiff to use  
17 the goods and services which the Store makes available to the non-disabled public. Plaintiff  
18 also seeks the recovery of damages for his personal damages involved in the discriminatory  
19 experiences on the Dates, and seeks recovery of reasonable attorney's fees and litigation  
20 expenses and costs according to statute.

21 4. Jurisdiction: This Court has jurisdiction of this action pursuant to 28 USC § 1331 for  
22 violations of the Americans with Disabilities Act of 1990, 42 USC 12101 et seq. Pursuant to  
23 supplemental jurisdiction, attendant and related causes of action arising from the same facts are

1 also brought under California law, including but not limited to violations of California Civil  
2 Code §§ 51, 54, 54.1 and 55.

3  
4 5. Venue: Venue is proper in this Court pursuant to 28 USC 1391(b) and is founded on the fact  
5 that the location where Plaintiff experienced his discrimination is located in this district and  
6 that Plaintiff's causes of action arose in this district.

7 6. Intradistrict: This case should be assigned to the San Jose intradistrict because the incident  
8 occurred in, and Plaintiff's rights arose in, the San Jose intradistrict.

9 7. The Store is a "public accommodation or facility" subject to the requirements of California  
10 Civil Code § 51, 54, 54.1 and 55.

11 8. Placeholder.

12 9. Defendants are and were the owners, operators, managers, lessors and lessees of the subject  
13 Store at all times relevant herein. Plaintiff is informed and believes that each of the Defendants  
14 is and was the agent, employee or representative of each of the other Defendants, and  
15 performed all acts and omissions stated herein within the scope of such agency or employment  
16 or representative capacity and is responsible in some manner for the acts and omissions of the  
17 other Defendants in proximately causing the damages complained of herein.

18 10. Plaintiff and others similarly situated are disabled persons who require the use of a  
19 wheelchair, do not have full use of their hands, and are unable to use public facilities on a "full  
20 and equal" basis unless each such facility is in compliance with the provisions of the Americans  
21 with Disabilities Act of 1990 and the regulations thereof. Under Civil Code §§ 51 and 54.1,  
22 Defendants were required to comply with the requirements of the Americans with Disabilities  
23 Act of 1990 and the federal regulations adopted pursuant thereto. The acts and omissions of

1 which Plaintiff complains took place at the Store.

2  
3 11. Civil Code §§ 51 and 54, et seq., were enacted to prohibit discrimination against people  
4 with disabilities and to encourage the full and free use by people with disabilities of public  
5 facilities and other public places. CC §§ 51 and 54(c) state that a violation of the Americans  
6 with Disabilities Act of 1990 is a "violation of this section"; CC § 54.1(a) states that  
7 individuals with disabilities are entitled to "full and equal access" to public accommodations  
8 and that such access means that which meets the standards of Titles II and III of the Americans  
9 with Disabilities Act of 1990 and federal regulations adopted pursuant thereto; CC § 52 states  
10 that minimum damages for discrimination are \$4,000 for each instance of discrimination; CC §  
11 54.3 states that a defendant who denies or interferes with a disabled person's rights of access is  
12 liable for actual damages of not less than \$1,000 and attorneys' fees.

13 12. Health & Safety Code § 19955 was enacted "To ensure that public accommodations or  
14 facilities constructed in this state with private funds adhere to provisions of Chapter 7  
15 (commencing with § 4450) of Division 5 of Title 1 of the Government Code." Such public  
16 accommodations include those which are the subject of this action. On information and belief,  
17 Title 24 California Code of Regulations, formerly known as the California Administrative  
18 Code, was in effect at the time of construction and of each alteration of work, all of which  
19 occurred after July 1, 1982, thus requiring access complying with the specifications of title 24  
20 for all such construction and for each such "alteration, structural repair or addition".

21 13. Although Plaintiff lives in the Sacramento area, he periodically goes to Monterey to  
22 accompany his son in his son's scuba diving activities and to patronize tourist facilities.

23 Although the Store has a parking lot, it does not have van-accessible parking. Both the

1 Store's restrooms, and the Store itself, are inaccessible to people in wheelchairs because getting  
2 in requires going up a curb.

3  
4 On May 17, 2008 Plaintiff drove to the Store to purchase some medicine. He had no  
5 choice but to park in a parking spaces which was not van-accessible. He then discovered that  
6 he could not get into the Store. As a consequence, he left and went to another mini mart down  
7 the street.

8 On May 18, 2008 Plaintiff went to the Store to get gas and food. He was unable to get  
9 into the Store, himself, to get the food. He would have used the Store's restroom if he had been  
10 able to get into it.

11 As a result, Plaintiff was humiliated and embarrassed, all to Plaintiff's damages in an  
12 amount according to proof.

13 14. Defendant's failure to remove all readily achievable barriers, institute policies in  
14 furtherance of accessibility or at least have an alternate policy to enable Plaintiff to use the  
15 goods and services offered to the non-disabled public without having to suffer the indignities,  
16 as aforesaid, was a violation of the California Building Code, the Americans with Disabilities  
17 Act and federal regulations adopted pursuant thereto, and as a consequence, was a violation of  
18 Civil Code §§ 51 and 54, et seq.

19 15. Injunctive relief: Plaintiff seeks injunctive relief to prohibit the acts and omissions by  
20 Defendants at the Store as stated above which appear to be continuing, and which have the  
21 effect of wrongfully excluding Plaintiff and others similarly situated from using the Store.  
22 Plaintiff will either continue to use the Store or will refrain from using the Store until the  
23 barriers are removed. Such acts and omissions are the cause of humiliation and mental and

1 emotional suffering of Plaintiff in that these actions continue to treat Plaintiff as an inferior and  
2 second class citizen and serve to discriminate against Plaintiff on the sole basis that Plaintiff is  
3 a person with a disability and requires the use of a wheelchair for movement in public places.  
4 Plaintiff is unable so long as such acts and omissions of Defendants continue, to achieve equal  
5 access to and use of this public facility. The acts of Defendants have proximately caused and  
6 will continue to cause irreparable injury to Plaintiff if not enjoined by this Court. Plaintiff  
7 seeks an injunction as to every violation of California or Federal disability access law which is  
8 related to his disability.  
9

10 16. Damages: As a result of the denial of equal access to the Store and due to the acts and  
11 omissions of Defendants and each of them in owning, operating and/or leasing the Store,  
12 Plaintiff suffered a violation of Civil Rights including but not limited to rights under Civil Code  
13 §§ 51, 54 and 54.1, and suffered mental and emotional distress, embarrassment and humiliation,  
14 all to Plaintiff's damages. Defendant's actions and omissions to act constituted discrimination  
15 against Plaintiff on the basis that Plaintiff was physically disabled and unable to use the  
16 facilities on a full and equal basis as other persons, and on the additional basis that Plaintiff had  
17 asked the property owner to remove barriers from the property. Plaintiff seeks actual damages,  
18 including the minimum damages of \$4,000 per visit pursuant to CC § 52 and/or \$1,000 per visit  
19 pursuant to CC § 54.3. Plaintiff also seeks trebling of all of the actual damages as provided by  
20 Civil Code § 54.3.

21 17. Fees and costs: As a result of Defendant's acts, omissions and conduct, Plaintiff has been  
22 required to incur attorney's fees, litigation expenses, and costs as provided by statute, in order  
23 to enforce Plaintiff's rights and to enforce provisions of the law protecting access for disabled

1 persons and prohibiting discrimination against disabled persons. Plaintiff therefore seeks  
2 recovery of all reasonable attorney's fees and costs, pursuant to the provisions of Civil Code §§  
3 52 and 54.3. Additionally, Plaintiff's lawsuit is intended not only to obtain compensation for  
4 damages to Plaintiff, but also to force the Defendants to make their facilities accessible to all  
5 disabled members of the public, justifying "public interest" attorney's fees, litigation expenses  
6 and costs pursuant to Code of Civil Procedure § 1021.5.

7 18. Wherefore, Plaintiff asks this Court to preliminarily and permanently enjoin any continuing  
8 refusal by Defendants to comply with the requirements of the California Building Code and the  
9 Americans with Disabilities Act of 1990 and regulations adopted pursuant thereto with respect  
10 to access of disabled persons to the Store; for minimum damages pursuant to CC § 52; for  
11 actual and treble damages pursuant to CC § 54.3 and for attorneys' fees and costs pursuant to  
12 CC §§ 52, 54.3 and 1021.5.

13  
14 SECOND CLAIM FOR RELIEF:  
VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990  
42 USC §§ 12101 FF

15 19. Plaintiff realleges the allegations of paragraphs 1-18 hereof.

16 20. Pursuant to law, in 1990 the United States Congress made findings per 42 USC §12101  
17 regarding physically disabled persons, finding that laws were needed to more fully protect  
18 "some 43 million Americans [with] one or more physical or mental disabilities"; that  
19 "historically society has tended to isolate and segregate individuals with disabilities"; and that  
20 "such forms of discrimination against individuals with disabilities continue to be a serious and  
21 pervasive social problem"; that "the Nation's proper goals regarding individuals with disabilities  
22 are to assure equality of opportunity, full participation, independent living and economic self  
23



1  
2 sufficiency for such individuals"; and that "the continuing existence of unfair and unnecessary  
3 discrimination and prejudice denies people with disabilities the opportunity to compete on an  
4 equal basis and to pursue those opportunities for which our free society is justifiably famous ..."

5 21. Congress stated as its purpose in passing the Americans with Disabilities Act (42 USC  
6 §12101(b)):

7 It is the purpose of this act

8 (1) to provide a clear and comprehensive national mandate for the elimination of  
discrimination against individuals with disabilities;

9 (2) to provide clear, strong, consistent, **enforceable standards** addressing discrimination  
against individuals with disabilities;

10 (3) to ensure that the Federal government plays a central role in enforcing the standards  
11 established in this act on behalf of individuals with disabilities; and

12 (4) to invoke the sweep of Congressional authority, including the power to enforce the  
13 14th Amendment and to regulate commerce, in order to address the major areas of  
**discrimination faced day to day** by people with disabilities (emphasis added).

14 22. As part of the Americans with Disabilities Act, Public Law 101-336 (hereinafter the  
15 "ADA"), Congress passed "Title III - Public Accommodations and Services Operated by Private  
16 Entities" (42 USC 12181 ff). Among "private entities" which are considered "public  
17 accommodations" for purposes of this Title are a gas station/mini mart (Regulation 36.104).

18 23. Pursuant to §302, 42 USC §12182, "No individual shall be discriminated against on the  
19 basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges,  
20 advantages or accommodations of any place of public accommodation by any person who  
21 owns, leases or leases to, or operates a place of public accommodation."

22 24. Among the specific prohibitions against discrimination were included:

23 **§12182(b)(2)(A)(ii)**: "A failure to make reasonable modifications in policies, practices or



1 procedures when such modifications are necessary to afford such goods, services, facilities,  
2 privileges, advantages or accommodations to individuals with disabilities ...";

3 §12182(b)(A)(iii): "a failure to take such steps as may be necessary to ensure that no individual  
4 with a disability is excluded, denied service, segregated, or otherwise treated differently than  
5 other individuals because of the absence of auxiliary aids and services ..."; §12182(b)(A)(iv):

6 "A failure to remove architectural barriers and communication barriers that are structural in  
7 nature, in existing facilities ... where such removal is readily achievable"; §12182(b)(A)(v):

8 "Where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily  
9 achievable, a failure to make such goods, services, facilities, privileges, advantages, or  
10 accommodations available through alternative methods if such methods are readily achievable".

11 The acts and omissions of Defendants set forth herein were in violation of Plaintiff's rights  
12 under the ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 CFR Part  
13 36ff.

14 25. The removal of each of the barriers complained of by Plaintiff as hereinabove alleged, were  
15 at all times herein mentioned "readily achievable" under the standards of the Americans With  
16 Disabilities Act. Because the Store was not accessible, Defendants had an obligation to have  
17 some sort of plan which would have allowed Plaintiff to enjoy the Store's goods and services  
18 without having to suffer the indignities as aforesaid.

19 26. Pursuant to the Americans with Disabilities Act, 42 USC 12188ff, §308, Plaintiff is  
20 entitled to the remedies and procedures set forth in §204(a) of the Civil Rights Act of 1964, 42  
21 USC 2000(a)-3(a), as Plaintiff is being subjected to discrimination on the basis of disability in  
22 violation of this Title or has reasonable grounds for believing that he is about to be subjected to  
23

1 discrimination in violation of §12182. On information and belief, Defendants have continued  
2 to violate the law and deny the rights of Plaintiff and of other disabled persons to access this  
3 public accommodation since on or before the Dates. Pursuant to §12188(a)(2), "In cases of  
4 violations of §12182(b)(2)(A)(iv) ... injunctive relief shall include an order to alter facilities to  
5 make such facilities readily accessible to and usable by individuals with disabilities to the  
6 extent required by this title."

7  
8 27. Plaintiff seeks relief pursuant to remedies set forth in §204(a) of the Civil Rights Act of  
9 1964, (42 USC 2000(a)-3(a), and pursuant to Federal Regulations adopted to implement the  
10 Americans with Disabilities Act of 1990. Plaintiff is a person for purposes of Section 12188(a)  
11 of the ADA who is being subjected to discrimination on the basis of disability in violation of  
12 Title III and who has reasonable grounds for believing he will be subjected to such  
13 discrimination each time that he may attempt to patronize the Store.

14 Wherefore Plaintiff prays for relief as hereinafter stated:

15 PRAYER

16 1. Issue a preliminary and permanent injunction directing Defendants to modify its  
17 facilities as required by law to comply with the ADAAG where required, remove all barriers  
18 where it is readily achievable to do so, institute policies in furtherance of accessibility or at least  
19 have an alternate policy to enable Plaintiff to use the goods and services offered to the non-  
20 disabled public so that it provides adequate access to all citizens, including persons with  
21 disabilities; and issue a preliminary and permanent injunction directing Defendants to maintain  
22 its facilities usable by plaintiff and similarly situated persons with disabilities in compliance  
23 with federal regulations, and which provide full and equal access, as required by law;

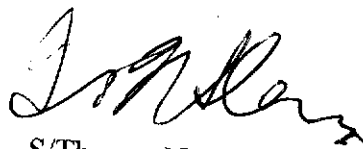
1  
2 2. Retain jurisdiction over the Defendants until such time as the Court is satisfied that  
3 Defendants' unlawful policies, practices, acts and omissions, and maintenance of inaccessible  
4 public facilities as complained of herein no longer occur, and will not recur;

5 3. Award to Plaintiff all appropriate damages, including but not limited to statutory  
6 damages, treble damages, general damages and special damages in an amount within the  
7 jurisdiction of the Court, all according to proof;

8 4. Award to Plaintiff all reasonable attorneys' fees, all litigation expenses, and all costs  
9 of this proceeding as provided by law; and

10 5. Grant such other and further relief as this Court may deem just and proper.

11 Date: June 10, 2008

12  
13 

14 S/Thomas N. Stewart, III  
By: THOMAS N. STEWART, III  
15 Attorney for Plaintiff  
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JS 44 (Rev. 12/07) (and rev 1-16-08)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

## I. (a) PLAINTIFFS

Scott Johnson

## DEFENDANTS

Fremont Land Company, LLC

(b) County of Residence of First Listed Plaintiff Sacramento  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Monterey  
(IN U.S. PLAINTIFF CASES ONLY)  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

(c) Attorney's (Firm Name, Address, and Telephone Number)

Thomas N. Stewart, III  
369 Blue Oak Lane  
Clayton, Ca 94517  
(925) 672-8452

Attorneys (If Known)

E-filing  
ADR  
HRL

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	PERSONAL INJURY	PERSONAL INJURY	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Property Damage	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Other Civil Rights		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 190 Other Contract					<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability					<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 196 Franchise					<input type="checkbox"/> 893 Environmental Matters
					<input type="checkbox"/> 894 Energy Allocation Act
					<input type="checkbox"/> 895 Freedom of Information Act
					<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
					<input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 12101

Brief description of cause:

ADA

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$  
UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

## IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☐ SAN FRANCISCO/OAKLAND☒ SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD

6/10/08

008-2944-HRL